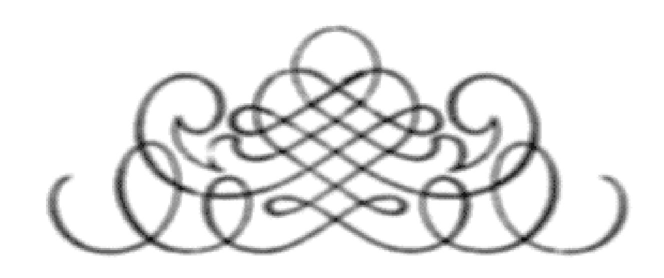
حقوق وواجبات المرأة في الإسلام

THE RIGHTS AND DUTIES OF WOMEN IN ISLAM

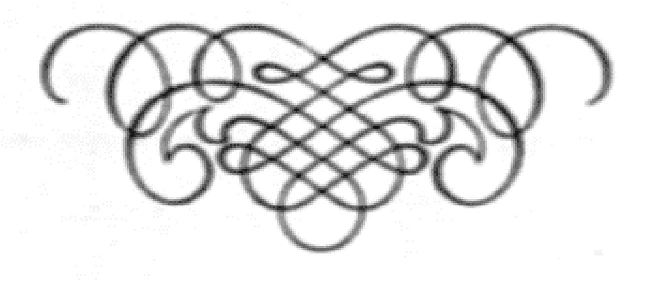
Abdul Ghaffar Hasan

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THE RIGHTS AND DUTIES OF WOMEN IN ISLAM



ABDUL GHAFFAR HASAN



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بسم الله الرحمن الرحيم

Introduction

The subject of the rights and duties of women in Islam has often been clouded by controversy, personal opinions and sheer ignorance. Although many scholars have dealt with this subject, there has remained a need to discuss wider aspects of the issue than are often tackled. Maulana Abdul Ghaffar Hasan, a scholar of *Hadith* and member of the Islamic Ideological Council in Pakistan, originally presented this topic to the Council as a short Urdu paper for discussion. Considering it to be a concise yet useful contribution to the field, I rendered it into English. I am very grateful to my daughter Khola Hasan who not only edited the English version but also contributed to it with her thoughts, thus adding to its substance beautifully.

I hope that this booklet will help to remove some of the misunderstandings, prejudiced opinions and falsehoods which circulate about the rights and duties of women in Islam.

Dr. Suhaib Hasan

Chapter 1

Men and Women in the Qur'ân and *Sunnah*

The issue of Women in Islam has been the subject of all kinds of controversies, misunderstandings and especially misinformation. This work will discuss and explain this subject according to the precise teachings of the Qur'ân and the *Sunnah* (sayings, acts i.e., the traditions) of the Allâh's Messenger صلى الله عليه و سلم.

To begin with, the most important aspect of the entire issue is the spiritual aspect. The Muslim accepts that the main purpose behind the creation of Jinns and mankind was that they should worship Allah, struggle against the forces of Satan and live life according to Allah's commandments in order to achieve eternal bliss in Paradise.

﴿ وَمَا خَلَقْتُ ٱلْجِنَّ وَٱلْإِنسَ إِلَّا لِيَعْبُدُونِ ﴾

"And I (Allâh) created not the jinns and men except they should worship Me (Alone)." (V.51:56)

In this spiritual regard, Islam makes no distinction between men and women. Both have a soul, both were created for the same purpose in life, both have a duty to fulfill their religious obligations, both will be judged by the Almighty, and both will be rewarded or punished according to their individual actions. Whenever the Qur'ân mentions those fortunate beings who will enter the Gardens of Bliss because of their piety and good deeds, it mentions men and women together.

﴿ وَمَن يَعْمَلْ مِنَ ٱلصَّٰلِحَٰتِ مِن ذَكَرٍ أَوْ أُنثَىٰ وَهُوَ مُؤْمِنٌ

فَأُوْلَٰٓئِكَ يَدْخُلُونَ ٱلْجَنَّةَ وَلَا يُظْلَمُونَ نَقِيرًا﴾

"And whoever does righteous good deeds, male or female, and is a true believer in the Oneness of Allâh (Muslim), such will enter Paradise and not the least injustice will be done to them." (V.4:124)

﴿مَنْ عَمِلَ صَٰلِحًا مِّن ذَكَرٍ أَوْ أُنثَىٰ وَهُوَ مُؤْمِنٌ فَلَنُحْيِيَنَّهُۥ حَيَوٰةً
طَيِّبَةً ۖ وَلَنَجْزِيَنَّهُمْ أَجْرَهُم بِأَحْسَنِ مَا كَانُوا۟ يَعْمَلُونَ﴾

"Whoever works righteousness, whether male or female, while he (or she) is a true believer (of Islâmic Monotheism) verily, to him We will give a good life (in this world with respect, contentment and lawful provision), and We shall pay them certainly a reward in proportion to the best of what they used to do (i.e. Paradise in the Hereafter)." (V.16:97)

﴿وَٱلْمُؤْمِنُونَ وَٱلْمُؤْمِنَٰتُ بَعْضُهُمْ أَوْلِيَآءُ بَعْضٍ ۚ يَأْمُرُونَ بِٱلْمَعْرُوفِ
وَيَنْهَوْنَ عَنِ ٱلْمُنكَرِ وَيُقِيمُونَ ٱلصَّلَوٰةَ وَيُؤْتُونَ ٱلزَّكَوٰةَ
وَيُطِيعُونَ ٱللَّهَ وَرَسُولَهُۥٓ ۚ أُو۟لَٰٓئِكَ سَيَرْحَمُهُمُ ٱللَّهُ ۗ إِنَّ ٱللَّهَ عَزِيزٌ
حَكِيمٌ﴾

"The believers, men and women, are *'Auliyâ'* (helpers, supporters, friends, protectors) of one another, they enjoin (on the people) *Al-Ma'rûf* (i.e. Islâmic Monotheism and all that Islâm orders one to do), and forbid (people) from *Al-Munkar* (i.e. polytheism and disbelief of all kinds, and all that Islâm has forbidden); they offer their prayers perfectly (*Iqâmat-as-Salât*): and give the *Zakât* and obey Allâh and His Messenger. Allâh will have His Mercy on them. Surely Allâh is Almighty, All-Wise." (V.9:71)

﴿إِنَّ ٱلْمُسْلِمِينَ وَٱلْمُسْلِمَٰتِ وَٱلْمُؤْمِنِينَ وَٱلْمُؤْمِنَٰتِ

وَٱلْقَٰنِتِينَ وَٱلْقَٰنِتَٰتِ وَٱلصَّٰدِقِينَ وَٱلصَّٰدِقَٰتِ وَٱلصَّٰبِرِينَ
وَٱلصَّٰبِرَٰتِ وَٱلْخَٰشِعِينَ وَٱلْخَٰشِعَٰتِ وَٱلْمُتَصَدِّقِينَ
وَٱلْمُتَصَدِّقَٰتِ وَٱلصَّٰٓئِمِينَ وَٱلصَّٰٓئِمَٰتِ وَٱلْحَٰفِظِينَ فُرُوجَهُمْ
وَٱلْحَٰفِظَٰتِ وَٱلذَّٰكِرِينَ ٱللَّهَ كَثِيرًا وَٱلذَّٰكِرَٰتِ أَعَدَّ
ٱللَّهُ لَهُم مَّغْفِرَةً وَأَجْرًا عَظِيمًا﴾

"Verily, the Muslims (those who submit to Allâh in Islâm) men and women, the believers men and women (who believe in Islâmic Monotheism), the men and the women who are obedient (to Allâh), the men and women who are truthful (in their speech and deeds), the men and the women who are patient (in performing all the duties which Allâh has ordered and in abstaining from all that Allâh has forbidden), the men and the women who are humble (before their Lord — Allâh), the men and the women who give *Sadaqât* (i.e. *Zakât,* and alms, etc.), the men and the women who fast (the obligatory fasting during the month of Ramadân, and the optional *Nawâfil* fasting), the men and the women who guard their chastity (from illegal sexual acts) and the men and the women who remember Allâh much with their hearts and tongues (while sitting, standing, lying, etc); Allâh has prepared for them forgiveness and a great reward (i.e. Paradise)." (V.33:35)

There can thus be no doubt that in the Hereafter, men and women will both be judged, each individual bearing the burden of its own acts, each soul will be punished for its transgressions and each will be rewarded for its obedience to Allah.

One may well ask that if there is such complete and comprehensive spiritual equality between the two sexes, why is this identical treatment not found in other rights,

duties and privileges. Muslims and especially non-Muslims question why men go out to work while women are encouraged to stay at home, why women have to wear the *Hijab* (veil), why a brother receives a larger share of inheritance than his sister, why a man can be a ruler but a woman can not, etc., and they then conclude that Islam treats women as inferior beings. Laws can never be discussed without being explained first, so we must first consider the fundamental Islamic ethos that men and women are two different yet complementary sexes. It is an established medical fact that men and women have different biological compositions and temperaments. Allah the Almighty created and knows this biological difference better than we do, and has thus assigned to men and women the roles that each excels in due to its nature. Neither gender is inferior or superior to the other; instead they complement each other like the two halves of a whole. In everyday life we see that society consists of many different kinds of people, all of whom play their particular roles to keep society intact. The farmer and the doctor make different contributions to society, but both are equally important. Each excels in his own field, and each provides a service for the other. Similarly, men and women are different and play vital roles in their own areas of excellence. The Prophet's narrations speak of women with praise and respect. He صلى الله عليه وسلم once said:

«إِنَّ الدُّنْيَا كُلَّهَا مَتَاعٌ وَخَيْرُ مَتَاعِ الدُّنْيَا الْمَرْأَةُ الصَّالِحَةُ»

"The world and all things in it are precious, and the most precious thing in the world is a virtuous woman." (Ahmad, Muslim)

He صلى الله عليه وسلم also said:

«أَلاَ أُخْبِرُكَ بِخَيْرِ مَا يَكْنِزُ الْمَرْءُ؟ الْمَرْأَةُ الصَّالِحَةُ: إِذَا نَظَرَ إِلَيْهَا سَرَّتْهُ، وَإِذَا أَمَرَهَا أَطَاعَتْهُ، وَإِذَا غَابَ عَنْهَا حَفِظَتْهُ»

"Shall I not inform you about the best treasure a man can have? It is a virtuous woman who pleases him when he looks at her, who obeys him when he commands her, and who guards herself when he is absent from her."

In a famous incident, a man came to the Prophet صلى الله عليه وسلم and asked:

يَارَسُوْلَ اللهِ! أَيُّ النَّاسِ أَحَقُّ مِنِّي بِحُسْنِ الصُّحْبَةِ؟ قَالَ أُمّكَ، قَالَ ثُمَّ مَنْ؟ قَالَ ثُمَّ أُمّكَ، قَالَ ثُمَّ مَنْ قَالَ ثُمَّ أُمّكَ قَالَ: ثُمَّ مَنْ؟ قَالَ أَبَاكَ»

"O Messenger of Allah, who is the person who has the greatest right on me with regards to kindness and attention?" He replied: "Your mother." "Then who?" He replied: "Your mother." "Then who?" He replied: "Your mother." "Then who?" He replied: "Your father." (Ahmad, Abu Dawud).

The Qur'ân also discusses the immense honour and respect due to both parents, and especially to mother:

﴿ وَوَصَّيْنَا ٱلْإِنسَـٰنَ بِوَٰلِدَيْهِ حَمَلَتْهُ أُمُّهُۥ وَهْنًا عَلَىٰ وَهْنٍ وَفِصَـٰلُهُۥ فِى عَامَيْنِ أَنِ ٱشْكُرْ لِى وَلِوَٰلِدَيْكَ إِلَىَّ ٱلْمَصِيرُ ﴾

"And We have enjoined on man (to be dutiful and good) to his parents. His mother bore him in weakness and hardship upon weakness and hardship, and his weaning is in two years — give thanks to Me and to your parents, — unto Me is the final destination." (V.31:14)

The Prophet صلى الله عليه وسلم said:

«حُبِّبَ إِلَيَّ مِنَ الدُّنْيَا النِّسَاءُ وَالطِّيْبُ، وَجُعِلَ قُرَّةُ عَيْنِيْ فِي الصَّلَاةِ»

"Made beloved to me from your world are women and perfume, and the coolness of my eyes is in prayer." (Ahmad, Nasa'i).

He صلى الله عليه وسلم also said:

«مَنْ عَالَ جَارِيَتَيْنِ دَخَلْتُ أَنَا وَهُوَ الْجَنَّةَ كَهَاتَيْنِ، وَأَشَارَ بِأَصْبُعَيْهِ.»

"Whoever looks after two girls till they reach maturity, he and I will enter Paradise together like these two (fingers)." (Muslim, Tirmidhi).

Chapter 2

The Home

While men are the physically stronger sex, the woman's biological make up has made her excel as the home-maker. She alone can be impregnated, carry and deliver the child, and then suckle the baby. Her gentle, caring and self-sacrificing temperament is best suited to bringing up children and looking after the home. To say that she should also earn a living implies that everything she does for her home and children is worthless and needs to be supplemented by an outside cover. A woman already has to play in society a great and noble role as mother of a new generation, a role for which no man can claim the honours. To expect a woman to share with her husband the additional duty of being the bread-winner of the family is an unacceptable injustice. It is because of her supreme role as mother that she is entitled to three times the devotion given to the father from the children.

The Qur'ân deals with the roles of men and women in the following verse:

﴿ ٱلرِّجَالُ قَوَّٰمُونَ عَلَى ٱلنِّسَآءِ بِمَا فَضَّلَ ٱللَّهُ بَعْضَهُمْ عَلَىٰ

بَعۡضٖ وَبِمَآ أَنفَقُواْ مِنۡ أَمۡوَٰلِهِمۡۚ فَٱلصَّٰلِحَٰتُ قَٰنِتَٰتٌ
حَٰفِظَٰتٞ لِّلۡغَيۡبِ بِمَا حَفِظَ ٱللَّهُۚ﴾

"Men are the protectors and maintainers of women, because Allâh has made the one of them to excel the other, and because they spend (to support them) from their means. Therefore the righteous women are devoutly obedient (to Allâh and to their husbands), and guard in the husband's absence what Allâh orders them to guard (e.g. their chastity, their husband's property, etc)." (V.4:34)

This Divine injunction describes the man as *Qawwam* (maintainer) and the woman as *Qanitah* (obedient) and *Hafizatun lil Ghaib* (preserver of the secret). The verse gives two reasons as to why men are described as maintainers. Firstly, because "Allâh has made the one of them to excel the other," which means that He has excelled men to be physically stronger and more inclined to have a career outside the home. The history of mankind has always shown that men, from the most primitive to the most technologically minded, have assumed the role of providing food, maintaining law and order in the community, waging war against enemies, and going on expeditions in search of new lands, adventure, food and even hidden treasure. The women have primarily stayed at home to provide a stable environment for the children.

The second reason is that "they spend from their means." It is the man's duty to provide financially for his family, and it is also the man who is required to give a dower to his wife at the time of their marriage. This verse then describes pious women as those who are obedient and guard their husband's secrets. In the castle of his home, the husband is the ruler and the wife is his pillar of support. As in any establishment, there can only be one ruler; a car with two drivers, a country with two kings or

an army with two generals would all be in utter chaos and disarray. The husband has thus been put in charge of his home, but this is a responsibility and not a privilege. Like any king his duty is to do justice, to consult the wishes of his family and to refrain from tyranny.

The different roles of the sexes means that never is one sex burdened with all the duties while the other enjoys all the privileges. Instead they both have individual duties and privileges, and both make sacrifices in order to win the pleasure of Allah. The Qur'ân says in this regard:

﴿ وَلَهُنَّ مِثْلُ ٱلَّذِى عَلَيْهِنَّ بِٱلْمَعْرُوفِ ۚ وَلِلرِّجَالِ عَلَيْهِنَّ دَرَجَةٌ ۗ وَٱللَّهُ عَزِيزٌ حَكِيمٌ ﴾

"...And they (women) have rights (over their husbands as regards living expenses, etc.) similar (to those of their husbands) over them (as regards obedience and respect, etc.) to what is reasonable, but men have a degree (of responsibility) over them. And Allâh is Almighty, All-Wise." (V.2:228)

Chapter 3

Issues in which Men and Women are treated alike or Women are treated favourably

This chapter discusses issues which carry little or no controversy.

1. Education

The Messenger of Allah صلى الله عليه وسلم once said:

«طَلَبُ الْعِلْمِ فَرِيْضَةٌ عَلَى كُلِّ مُسْلِمٍ»

> "Acquiring knowledge is complusory for every Muslim." (Tabarani).

This narration applies equally to men and women. "Knowledge" in this context refers primarily to knowledge of the Qur'ân and *Sunnah* as no Muslim should be ignorant of his or her faith, but it also covers other areas of general education which can contribute to the welfare of civilization. It is precisely the ignorance about their religion among Muslims that has led to men oppressing women because they believe it is permitted, women not demanding their God-given rights because they are ignorant of them, and children growing up to perpetuate their parents' follies. Throughout Islamic history men and women both earned respect as scholars and teachers of the faith. The books of *Rijal* (Reporters of *Hadith*) contain the names of many prominent women, beginning with 'Aisha and Hafsa رضى الله عنهما.

2. Worship

It has already been discussed in detail that both men and women are the slaves of Allah and have a duty to worship

and obey Him. Men and women have to pray, fast, give charity, go on pilgrimage, refrain from adultery, avoid the prohibited, enjoin the good and forbid the evil, and so on. Because of women's roles as mothers, a role which does not end at a specific time but is a round the clock career, they have been exempted from attending the Mosque for the five daily prayers or for *Jumu'ah* (Friday). Nevertheless, if they wish to attend the Mosque, no one has the right to stop them.

3. The right to own wealth and property

A woman has the right to keep her property or wealth, whether earned or inherited, and spend it as she may please. This right was granted to Western women only very recently, and the women of India had to wait until 1956 for a right which Muslim women have always taken for granted. Concerning the right to one's earnings, the Qur'ân says:

﴿وَلَا تَتَمَنَّوْا۟ مَا فَضَّلَ ٱللَّهُ بِهِۦ بَعْضَكُمْ عَلَىٰ بَعْضٍ ۚ لِّلرِّجَالِ نَصِيبٌ مِّمَّا ٱكْتَسَبُوا۟ ۖ وَلِلنِّسَآءِ نَصِيبٌ مِّمَّا ٱكْتَسَبْنَ ۚ وَسْـَٔلُوا۟ ٱللَّهَ مِن فَضْلِهِۦٓ ۗ إِنَّ ٱللَّهَ كَانَ بِكُلِّ شَىْءٍ عَلِيمًا﴾

> "And do not covet those things which Allah has bestwed...On some of you more freely than on others; for men is allotted what they earn, and for women is allotted what they earn; but ask Allah of His bounty, for Allah hath full knowledge of all things."(V. 4:32)

Men and women are both encouraged to give charity, and there is nothing to stop a woman giving charity from her husband's income. 'Aisha رضي الله عنها reported that the Messenger of Allah صلى الله عليه وسلم said:

«كَانَ لَهَا أَجْرُهَا بِمَا أَنْفَقَتْ. وَلِزَوْجِهَا أَجْرُهُ بِمَا كَسَبَ. وَلِلْخَازِنِ مِثْلُ ذٰلِكَ. لاَيَنْقُصُ بَعْضُهُمْ أَجْرَ بَعْضٍ شَيْئًا»

"A woman will receive reward (from Allah) even when she gives charity from her husband's earnings. The husband and the treasurer (who keeps the money on the husband's behalf) will also be rewarded, without the reward of any of them decreasing."

Asmâ رضي الله عنها once said to the Prophet صلى الله عليه و سلم:

«لَيْسَ لِيْ إِلاَّ مَا أَدْخَلَ الزُّبَيْرُ بَيْتِيْ، قَالَ: أَنْفِقِيْ وَلاَتُوْكِي فَيُوْكَى عَلَيْكِ»

"O Messenger of Allâh, I have nothing except what Zubair (her husband) brings home." The Prophet صلى الله عليه وسلم told her: "O Asmâ, Give in charity. Don't lock it lest your substenance is locked."

4. Freedom to express one's opinion

Few societies exist in which the ordinary citizen can confront the ruler face to face and challenge his policies. Even fewer societies allow women to be so bold, yet the Islamic ideal has always been open and accessible. This freedom of expression is aptly demonstrated by a famous incident involving 'Umar رضي الله عنه , the second Rightly Guided Caliph. 'Umar رضي الله عنه was once standing on the pulpit severely reprimanding the people and ordering them not to set excessive amounts of dower at the time of marriage. A woman got up and shouted, "Umar! You have no right to intervene in a matter which Allah the Almighty has already decreed in the Qur'ân:

﴿وَإِنْ أَرَدتُّمُ ٱسْتِبْدَالَ زَوْجٍ مَّكَانَ زَوْجٍ وَءَاتَيْتُمْ إِحْدَىٰهُنَّ قِنطَارًا فَلَا تَأْخُذُوا۟ مِنْهُ شَيْـًٔا ۚ أَتَأْخُذُونَهُۥ بُهْتَـٰنًا وَإِثْمًا مُّبِينًا﴾

"But if you intend to replace a wife by another and

you have given one of them a *Cantar* (of gold i.e. a great amount) as *Mahr* (bridal money), take not the least bit of it back; would you take it wrongfully without a right and (with) a manifest sin?" (V.4:20)

After being reminded of this verse, 'Umar رضي الله عنه withdrew his order, saying, "I am in the wrong and she is correct."

5. Participating in *Jihad*

The battlefield is a place which frightens many men let alone women. Due to the aggressive and violent nature of war, only men have a duty to participate in *Jihad* (holy fighting in Allah's cause) while women are exempted. A woman once asked the Prophet صلى الله عليه وسلم to allow women to go on *Jihad* with men because of its excellence and the unlimited reward promised to *Mujahideen* ((Muslim fighters) in the Hereafter. The Prophet صلى الله عليه وسلم replied:

«عَلَيْهِنَّ جِهَادٌ لاَقِتَالَ فِيْهِ: الْحَجُّ وَالْعُمْرَةُ»

"For them is a *Jihad* without fighting," which referred to the *Hajj* and *'Umrah*.

Nevertheless the Prophet صلى الله عليه وسلم did permit women to nurse the injured and supply provisions to the *Mujahideen* at some battles. A woman from the tribe of Ghifar came with a large group of women to the Prophet صلى الله عليه وسلم when he was preparing to leave for the conquest of Khaibar. She said:

«يَارَسُوْلَ اللهِ قَدْ أَرَدْنَا أَنْ نَخْرُجَ مَعَكَ إِلَى وَجْهِكَ هٰذَا -وَهُوَ يَسِيْرُ إِلَى خَيْبَرَ فَنُدَاوِيَ الْجَرْحَى وَنُعِيْنَ الْمُسْلِمِيْنَ بِمَا اسْتَطَعْنَا، فَقَالَ: عَلَى بَرَكَةِ اللهِ»

"O Allah's Messenger, we wish to accompany you on this journey so that we may nurse the injured and help the Muslims." The Prophet responded, "Come,

may Allah shower His blessings upon you."

Umm 'Atiya رضي الله عنها , an Ansari woman, once said:

«غَزَوْتُ مَعَ رَسُوْلِ اللهِ ﷺ سَبْعَ غَزَوَاتٍ. أَخْلُفُهُمْ فِيْ رِحَالِهِمْ. فَأَصْنَعُ لَهُمُ الطَّعَامَ، وَأُدَاوِي الْجَرْحَى، وَأَقُوْمُ عَلَى الْمَرْضَى»

"I have participated in seven battles with the Prophet. I used to guard the camels of the *Mujahideen* in their absence, cook the food, treat the injured and care for the sick."

Mu'adh bin Jabal (رضي الله عنه) reports that his cousin Asmâ bint Yazid killed nine Roman soldiers with a tent-pole during the battle of Yarmuk.

6. Freedom to choose her husband

The guardian of the girl, whether her father, brother or uncle plays an important role in her marriage, such as finding a suitable match for her. But under no circumstance does this allow him to force his choice on her against her wishes. She is free to accept or reject his choice, or make her own choice. A woman named Khansâ bint Khidam once came to the Prophet صلى الله عليه وسلم and complained:

«إِنَّ أَبِي زَوَّجَنِيْ مِنْ ابْنِ أَخِيْهِ لِيَرْفَعَ بِيْ خَسِيْسَتَهُ، فَجَعَلَ رَسُوْلُ اللهِ الأَمْرَ إِلَيْهَا، فَقَالَتْ: قَدْ أَجَزْتُ مَا صَنَعَ أَبِيْ، وَلٰكِنْ أَرَدْتُ أَنْ أُعْلِمَ النِّسَاءَ أَنَّهُ لَيْسَ إِلَى الآبَاءِ شَيْءٌ»

"My father has forced me to marry my cousin in order to raise his own status (in the eyes of the people)." The Prophet صلى الله عليه وسلم told her that she was free to dissolve this marriage and choose whoever she wished to marry. She replied, "I accept my father's choice, but

my aim was to let the women know that fathers have no right to interfere in the marriage." (Ahmad, Nasa'i, Ibn Majah).

7. A woman's guarantee in war is acceptable

If a woman gives surety to a war-captive or gives him shelter, her guarantee will be accepted. Umm Hâni رضي الله عنها, a cousin of the Prophet صلى الله عليه وسلم , said to him after the conquest of Makkah:

> "I have given shelter to two of my in-laws." The Prophet صلى الله عليه و سلم said: "O Umm Hâni, we have given shelter to whom you have given shelter."

According to another narrative, Umm Hâni رضي الله عنها gave shelter to a man but her cousin Ali رضي الله عنه tried to kill the man. She complained to the Prophet صلى الله عليه وسلم who endorsed her act of giving shelter to the man.

8. Enjoining the good and forbidding the evil

The Qur'ân deals with this subject in clear terms:

﴿ وَٱلْمُؤْمِنُونَ وَٱلْمُؤْمِنَٰتُ بَعْضُهُمْ أَوْلِيَآءُ بَعْضٍ يَأْمُرُونَ بِٱلْمَعْرُوفِ وَيَنْهَوْنَ عَنِ ٱلْمُنكَرِ وَيُقِيمُونَ ٱلصَّلَوٰةَ وَيُؤْتُونَ ٱلزَّكَوٰةَ وَيُطِيعُونَ ٱللَّهَ وَرَسُولَهُۥٓ أُوْلَٰٓئِكَ سَيَرْحَمُهُمُ ٱللَّهُ إِنَّ ٱللَّهَ عَزِيزٌ حَكِيمٌ ﴾

> "The believer, men and women, are *'Auliyâ'* (helpers, supporters, friends, protectors) of one another, they enjoin (on the people) *Al-Ma'rûf* (i.e. Islâmic Monotheism and all that Islâm orders one to do), and forbid (people) from *Al-Munkar* (i.e. polytheism and disbelief of all kinds, and all that Islâm has forbidden); they offer their prayers perfectly (*Iqâmat-as-Salât*): and give the *Zakât* and obey Allâh and His Messenger. Allâh will have His Mercy on them.

Surely Allâh is All-Mighty, All-Wise." (V.9:71)

9. The right to custody of children

Divorce is especially painful and difficult when the couple have had children, and awarding custody to either party involves difficulties. According to Western law, both father and mother have to prove to the court that they are more capable of looking after the children, and this often involves maligning the other party in order to strengthen their own claims to custody. Islamic law has its own clear decision on this issue. Custody of young boys and girls goes to the mother. The son stays with his mother until he is about seven or nine years of age, after which he is looked after by the father. The daughter remains with her mother until she gets married. The exception is when the mother herself re-marries, in which case custody may be awarded to someone else such as the girl's grandmother or aunt. This is based on the Prophet's words to the divorcee:

«أَنْتِ أَحَقُّ بِهِ مَا لَمْ تَنْكِحِيْ»

"Your right to custody of the child is greater as long as you do not remarry."

Chapter 4

Issues in which Men and Women are treated as dissimilar

This chapter deals with issues which raise most of the questions, criticisms as well as tempers.

1. *Hijab.* Muslim men and women have to fulfill very different requirements concerning *Satr* (parts of the body which have to be covered). The following verse deals with the observation of *Satr* for women inside the home where only close male and female family members can mix together freely.

﴿ وَقُل لِّلْمُؤْمِنَٰتِ يَغْضُضْنَ مِنْ أَبْصَٰرِهِنَّ وَيَحْفَظْنَ فُرُوجَهُنَّ وَلَا
يُبْدِينَ زِينَتَهُنَّ إِلَّا مَا ظَهَرَ مِنْهَا ۖ وَلْيَضْرِبْنَ بِخُمُرِهِنَّ عَلَىٰ جُيُوبِهِنَّ ۖ
وَلَا يُبْدِينَ زِينَتَهُنَّ إِلَّا لِبُعُولَتِهِنَّ أَوْ ءَابَآئِهِنَّ أَوْ ءَابَآءِ
بُعُولَتِهِنَّ أَوْ أَبْنَآئِهِنَّ أَوْ أَبْنَآءِ بُعُولَتِهِنَّ أَوْ إِخْوَٰنِهِنَّ أَوْ
بَنِىٓ إِخْوَٰنِهِنَّ أَوْ بَنِىٓ أَخَوَٰتِهِنَّ أَوْ نِسَآئِهِنَّ أَوْ مَا مَلَكَتْ أَيْمَٰنُهُنَّ
أَوِ ٱلتَّٰبِعِينَ غَيْرِ أُو۟لِى ٱلْإِرْبَةِ مِنَ ٱلرِّجَالِ أَوِ ٱلطِّفْلِ ٱلَّذِينَ لَمْ
يَظْهَرُوا۟ عَلَىٰ عَوْرَٰتِ ٱلنِّسَآءِ ۖ وَلَا يَضْرِبْنَ بِأَرْجُلِهِنَّ لِيُعْلَمَ مَا يُخْفِينَ
مِن زِينَتِهِنَّ ۚ وَتُوبُوٓا۟ إِلَى ٱللَّهِ جَمِيعًا أَيُّهَ ٱلْمُؤْمِنُونَ لَعَلَّكُمْ
تُفْلِحُونَ ﴾

"And tell the believing women to lower their gaze (from looking at forbidden things), and protect their private parts (from illegal sexual acts, etc.) and not to show off their adornment except only that which

is apparent (like palms of hands or one eye or both eyes for necessity to see the way, or outer dress like veil, gloves, head-cover, apron, etc.), and to draw their veils all over *Juyubihinna* (i.e. their bodies, faces, necks and bosoms, etc.) and not to reveal their adornment except to their husbands, their fathers, their husband's fathers, their sons, their husband's sons, their brothers or their brother's sons, or their sister's sons, or their (Muslim) women (i.e. their sisters in Islâm), or the (female) slaves whom their right hands possess, or old male servants who lack vigour, or small children who have no sense of the shame of sex. And let them not stamp their feet so as to reveal what they hide of their adornment. And all of you beg Allâh to forgive you all, O believers, that you may be successful." (V.24:31)

Women can thus expose their objects of beautification such as make-up and jewellery to other chaste women and the men listed in the above verse only. In front of other people, the Prophet's wives and all Muslim women have been ordered to fulfill the requirements of *Hijab* by wearing a *Jilbab*, which is a long outer garment that covers the entire body.

﴿ يَـٰٓأَيُّهَا ٱلنَّبِىُّ قُل لِّأَزْوَٰجِكَ وَبَنَاتِكَ وَنِسَآءِ ٱلْمُؤْمِنِينَ يُدْنِينَ عَلَيْهِنَّ مِن جَلَـٰبِيبِهِنَّ ذَٰلِكَ أَدْنَىٰٓ أَن يُعْرَفْنَ فَلَا يُؤْذَيْنَ وَكَانَ ٱللَّهُ غَفُورًا رَّحِيمًا ﴾

"O Prophet, Tell your wives and your daughters and the women of the believers to draw their cloaks (veils) all over their bodies (i.e. screen themselves completely except the eyes or one eye to see the way). That will be better, that they should be known (as free respectable women) so as not to be annoyed. And Allâh is Ever Oft-Forgiving, Most Merciful." (V.33:59)

Islam does not permit the free mixing of men and women outside the close family group, and Western-style mixing even with wearing the *Hijâb* in not permissible as is seen in places of education and work. The Qur'ân tells the believing men in the time of the Prophet صلى الله عليه وسلم :

﴿ وَإِذَا سَأَلْتُمُوهُنَّ مَتَٰعًا فَسْـَٔلُوهُنَّ مِن وَرَآءِ حِجَابٍ ۚ ذَٰلِكُمْ أَطْهَرُ لِقُلُوبِكُمْ وَقُلُوبِهِنَّ ﴾

"...And when you ask (his wives) for anything you want, ask them from behind a screen, that is purer for your hearts and for their hearts." (V.33:53)

The wives of the Prophet صلى الله عليه وسلم were models for all women and were regarded as the Mothers of all Believers. If they could only be addressed from behind a curtain in order to avoid any temptation or impropriety, how much more then is such a curtain necessary for ordinary women who can be a much greater source of temptation? It is also clear from the time of the Prophet صلى الله عليه وسلم that the Companions رضى الله عنهم did not treat this verse as referring only to the Prophet's wives but applied it to their women as well, with the complete approval of the Prophet صلى الله عليه وسلم . The reason given in the above verse for such a curtain is "that is purer for your hearts and for their hearts" and in another verse we read:

﴿ قُل لِّلْمُؤْمِنِينَ يَغُضُّوا۟ مِنْ أَبْصَٰرِهِمْ وَيَحْفَظُوا۟ فُرُوجَهُمْ ۚ ذَٰلِكَ أَزْكَىٰ لَهُمْ ۗ إِنَّ ٱللَّهَ خَبِيرٌۢ بِمَا يَصْنَعُونَ ﴾

"Tell the believing men to lower their gaze (from looking at forbidden things), and protect their private parts (from illegal sexual acts, etc.). That is purer for them. Verily, Allâh is All-Aware of what they do." (V.24:30)

Islâm wishes to establish a pure society in which there is no

room even for adultery of the eye. Free-mixing between the sexes is forbidden, men and women are advised to marry at a young age so that they can fulfill their desires lawfully, and all are told to "lower their gazes" in public so that the eye may not be used as an instrument of Satan. By observing *Hijab*, the woman's dignity and decency is safeguarded. Her attire makes clear that she is not an object for sale, advertising her beauty and available for men's lusting eyes and wolf whistles. We need little reminder of the immoral society around us today in which the sexes mingle wearing indecent clothes, and adultery is only frowned upon if committed after being married. Before marriage individuals are encouraged to try different partners, and the unfaithfulness, the misery, the jealousy and the insecurities which then take place are a necessary result of such a life style. The Muslims may well feel safe and secure within the Islamic moral and dress code, but they are often imitating too much of the non-Muslims' behaviour for complacency.

2. Polygamy. A man is allowed a maximum of four wives provided he treats them with equality and justice. If he can not support more than one wife or fears that he will not be just between them, he should remain monogamous. The primary purpose behind polygamy is to provide for war-widows and orphans. The number of men in any society inevitably decreases after a major war, and polygamy provides the only decent solution for the widows and orphans left alone. In such situations women may resort to a monastic life, which is unnatural, or to an immoral and sinful life. Islam also strictly forbids sexual relations outside marriage, and polygamy is again the only decent and honest solution in cases where a man wants more than one partner.

The widespread practice today of men having wives as well as mistresses is demeaning for all the women involved, it is dishonest and causes untold misery. By marrying more than

once, not only are all the woman and the children involved legitimate, but the man also has to face up to full responsibility for all the relationships into which he enters.

3. Evidence of women. The Qur'ân clearly states that the evidence of two women is equivalent to that of one man, giving the reason that if one forgets, the other may remind her.

﴿وَٱسْتَشْهِدُوا۟ شَهِيدَيْنِ مِن رِّجَالِكُمْ ۖ فَإِن لَّمْ يَكُونَا رَجُلَيْنِ
فَرَجُلٌ وَٱمْرَأَتَانِ مِمَّن تَرْضَوْنَ مِنَ ٱلشُّهَدَآءِ أَن تَضِلَّ إِحْدَىٰهُمَا
فَتُذَكِّرَ إِحْدَىٰهُمَا ٱلْأُخْرَىٰ﴾

> "...And get two witnesses out of your own men. And if there are not two men (available), then a man and two women, such as you agree for witnesses, so that if one of them (two women) errs, the other can remind her..." (V.2:282)

Giving evidence in court can be a daunting experience, especially as the judicial system will consist mainly of men, so the women can give each other moral support as well as reminders. It is a serious and burdensome responsibility which has been lightened for women.

There are four situations in which evidence is required:

a. Crimes related to penal ordinances and retaliation. If men and women are both available, the men will be called to give witness and the women will not be summoned.

b. In economic affairs related to wealth and property, which are usually the domains of men, the evidence of two men is accepted. If two men are not available, then one man and two women will be accepted.

c. In affairs concerning women only such as pregnancy, birth, sexual defects, the evidence of one woman alone is accepted.

d. In criminal cases where only women are the witnesses, the

four *Imam* (religions leaders) are unanimous in not accepting the evidence of women. They reason that in cases such as murder and rape, the women will be emotional and may get confused. Such evidence becomes suspicious, and a principle of *Shar'iah* (Islamic law) is that any suspicion about the evidence makes the evidence null and void. In this context the Zahiri school of thought is more credible.

It states that if women alone are the witness in a criminal case, their evidence will be accepted according to the principle of two women's evidence being equivalent to that of one man. So in cases of adultery, the evidence of four men or eight women will be accepted. They argue that to reject women's evidence entirely in such cases will allow much crime to go unpunished.

It is an established scientific fact that women cannot explain the intimate details of events with the accuracy of detail of which men are capable. This fact has been confirmed by much research, such as Dr. Harding's, in his book "The way of all women". According to one *Hadith*, the Prophet صلى الله عليه وسلم described women as being incomplete in reason and religious practices. They are incomplete in religious practice because they are exempted from the five daily prayers and fasting during their monthly menstruation. Their incompleteness in reason is taken into account in the field of legal evidence. Giving evidence in court is a serious responsibility from which a woman is relieved, just as she is relieved from attending the Mosque for the five daily prayers and the Friday prayer.

4. Inheritance. A daughter receives half the share of inheritance compared with the son in accordance with the following Qur'ânic injunction:

﴿يُوصِيكُمُ ٱللَّهُ فِىٓ أَوْلَـٰدِكُمْ ۖ لِلذَّكَرِ مِثْلُ حَظِّ ٱلْأُنثَيَيْنِ﴾

"Allâh commands you as regards your children's

(inheritance); to the male, a portion equal to that of two females;" (V.4:11)

If the daughter has no brothers and only women are the heirs, then this principle does not apply. The ruling of giving a woman half the share of a man seems unjust at first glance, but in fact it is more generous to women. It is based on the *Shari'a* principle of الغُنْمُ بالغُرْمِ "Benefits in accordance with the scale of responsibility."

To illustrate, a brother will inherit twice the sum his sister inherits. What she inherits is hers to keep and she need not spend it on anyone, even her husband though he may be poor. The brother is, however, responsible for maintaining his family, which includes his unmarried sister, surviving parent, wife and children. At the time of his marriage he will have to pay dower to his wife as well as provide for her throughout their married life. The sister will in contrast receive dower and will be maintained by her husband. Any income she has and her share of inheritance is hers exclusively with which her family cannot interfere.

It seems that this same wisdom is behind the *'Aqiqah* ceremony when the two sheep are sacrificed at the birth of a male child, and one sheep at the birth of a female child. This principle of benefits according to responsibility has wide applications in Islam.

For example, after battle the Prophet صلى الله عليه وسلم would distribute the captured booty on the same principle by giving two shares to the cavalry and one share to the infantry. (Ref. Musnad Ibn Abi Shaiba).

5. Blood money. According to the principle of 'Benefits according to responsibility', the blood money of a woman is half that of a man. It is important to remember that blood money is not the price for the soul of a murdered person, as there can be no such price. It is instead a small

compensation for the financial sufferings of the deceased's family. Men are usually the bread-winners and maintainers of their families, so the financial sufferings are greater if the man is killed, but if the murder victim was a woman who was the sole bread-winner for her family, then the *Qadi* (judge) has the authority to increase her blood money.

A precedent for such an increase is found in the Qur'ân where it allows the *Qadi* to double the blood money of a person murdered within the precincts of the Sacred Cities, Makkah and Al-Madinah. The wisdom behind is that just as virtuous actions are rewarded more if practised within *Al-Haram* (the sanctuary), so the punishment for crimes or sins within *Al-Haram* is also increased.

6. Divorce. The man has the primary right to divorce.

In verse 2:237 Allah says:

﴿ وَإِن طَلَّقْتُمُوهُنَّ مِن قَبْلِ أَن تَمَسُّوهُنَّ وَقَدْ فَرَضْتُمْ لَهُنَّ فَرِيضَةً
فَنِصْفُ مَا فَرَضْتُمْ إِلَّآ أَن يَعْفُونَ أَوْ يَعْفُوَا۟ ٱلَّذِى بِيَدِهِۦ عُقْدَةُ
ٱلنِّكَاحِ وَأَن تَعْفُوٓا۟ أَقْرَبُ لِلتَّقْوَىٰ وَلَا تَنسَوُا۟ ٱلْفَضْلَ بَيْنَكُمْ إِنَّ
ٱللَّهَ بِمَا تَعْمَلُونَ بَصِيرٌ ﴾

"And if you divorce them before you have touched (had a sexual relation with) them, and you have appointed unto them the *Mahr* (bridal money given by the husbands to his wife at the time of marriage), then pay half of that (*Mahr*), unless they (the women) agree to forego it, or he (the husband), in whose hands is the marriage tie, agrees to forego and give her full appointed *Mahr*. And to forego and give (her the full *Mahr*) is nearer to *At-Taqwa* (piety, righteousness, etc.). And do not forget liberality between yourselves. Truly, Allâh is All-Seer of what you do." (V.2:237)

This may seem unjust at first glance, but Allah the

Almighty has given injunctions based on men and women's different temperaments. The woman is controlled more by her emotions than by reason, and this is obviously an asset in the home. Her tender nature and ability to sacrifice her own comfort for the sake of her child makes her a better parent than the man. In a situation of marital conflict her emotional nature will be more inclined to exaggerate the seriousness of the conflict and to thus instigate divorce. The man will be more inclined to think calmly about the situation before pronouncing judgement. Neither of these characteristics is inferior or superior to the other; both are complementary and best suited to the roles the sexes have to play. In order to mitigate rash conduct by the husband, the Qur'ân and *Sunnah* have made provisions for cases when the man does pronounce divorce but then regrets it. The divorce never becomes binding immediately but gives him a period of three lunar months (the woman's *'Iddat* or waiting period) in which he can either endorse the divorce or revoke it and seek reconciliation.

It should be remembered that a woman is not helpless in the matter of divorce as is widely believed. Although she cannot pronounce divorce like a man, for the reasons of her temperament already given, she can obtain one through a *Qadi* or arbitrator. This process is called *Khula'*, and the woman asks for divorce in lieu of returning her dower or any other gifts to the husband.

In the Western world today, the high rates of divorce are widely attributed, among other things, to the financial independence of women and the ease with which they can obtain divorce for flimsy reasons. The Islamic ethos encourages men and women to save their marriage for the sake of their children and to uphold the family institution.

7. Right to trade or seek other employment. A woman is allowed to trade and work in institutions for women

only, and at all times she must observe the relevant rules on *Hijab* and *Satr*. A woman's primary place is in the home but she may work if she has no one to support her or because her husband's income is not sufficient for the family's needs. As has already been mentioned under the discussion on *Hijab*, Islam does not permit the free mixing of men and women outside the close family circle. Women are allowed to go to Mosques for worship, educational institutions, and the battlefield. In the Mosques and educational establishments the Muslims should provide separate places where women may pray and study in privacy. On the battlefield women may nurse the injured if there is a shortage of male nurses. Whenever men and women work or study in the same place, there is an increase in temptation from Satan. Sexual harassment in Western places of employment is a common problem for which the women often have no remedy. Islam tackles the root of the problem by separating the sexes and so avoiding situations of temptation which can lead to sin.

8. Women in positions of authority, such as leaders, ministers, ambassadors and members of the legislature. The ruler of the Islamic state does not only administer the affairs of government but has to fulfill a much wider and strenuous role. He has to be able to face the public day and night, meet ministers and foreign dignitaries, lead the country in political crises and war, and be able to lead the people in congregational prayers. A woman cannot fulfill all these roles while having children and establishing her home.

In fact, she cannot fulfill most of these roles anyway, such as leading a battle or prayer. Allâh the Almighty has enjoined upon men, the duty of maintaining the family. If a woman is not the maintainer of her own home, how can she be expected to maintain the government of a country. The Prophet's statement on this issue was very clear:

«لَنْ يُفْلِحَ قَوْمٌ وَلَّوْا أَمْرَهُمُ امْرَأَةً»

"The people who hand their rule over to a woman will not be successful (or prosperous)." (Bukhari).

During the early years of Islam, women were never appointed as *Khalifa* (caliph), governors or *Qadi*. The Prophet صلى الله عليه وسلم was survived by many of his wives and daughters, but they were never rulers of any part of the vast Islamic state. The Muslims today who attempt to justify electing women leaders of Muslim countries are in open flagrancy of Islamic teachings. Some Muslim countries allow women to be ambassadors, and members of the parliament or the consultative assemblies, but this too is inadvisable for various reasons, for example:

(i) The woman's natural and primary career is her home, family and children. This is in itself an extremely demanding role; and in order for her to do justice to her role in parliament, she would have to deny her own maternal instincts and sacrifice the needs of her family. This is an unacceptable injustice to her.

(ii) Full participation in parliamentary proceedings involves long hours in an atmosphere of free mixing and social interaction. This is completely forbidden in Islam.

(iii) A woman is obliged to observe Islamic injunctions on *Satr* and *Hijab*. Spending entire days and nights in parliament wearing *Hijab* is difficult and uncomfortable, and the practical example of women parliamentarians in Muslim countries today is that they cannot obey the rules. The nature of the job is that it suits men only, and women who try to take on a man's work will inevitably find themselves out of their depth.

(iv) A woman cannot travel on a journey which lasts more than a day and night unless she is accompanied by a *Mahram* (a close male relative). Islam recognizes that

society can be very dangerous, and so does its utmost to protect women. Members of parliament do not only attend daily sessions but are required to travel inland and abroad in order to better discharge their duties. It will be impractical for the Muslim woman to look constantly for a *Mahram*.

All this does not mean to say that women have no say in the government of their country. If a woman has the capability and knowledge which could benefit the state, she can advise the government without having to participate in its daily workings.

Chapter 5

Men and Women as mutually complementary

The Nobel prize winner Dr. Alexis Carrel has described the biological differences between men and women in her book "Man, the unknown." She concludes with the following analysis:

Woman differs profoundly from Man

> The difference existing between man and woman do not come from the particular form of the sexual organs, the presence of the uterus, from gestation, or from the mode of education. They are of a more fundamental impregnation of the entire organism with specific chemical substances secreted by the ovary. Ignorance of these fundamental facts has led promoters of feminism to believe that both sexes should have the same education, the same powers and the same responsibilities. In reality woman differs profoundly from man. Every one of the cells of her body bears the mark of her sex. The same is true of her organs and, above all, of her nervous system. Physiological laws are as inexorable as those of the sidereal world. They cannot be replaced by human wishes. We are obliged to accept them just as they are. Women should develop their aptitudes in accordance with their own nature, without trying to imitate the males. Their part in the progress of civilization is higher than that of men. They should not abandon their specific functions.

[Dr. Alexis Carrel, Man, The Unknown, New York, 1949 p. 91]

The major biological differences between men and women mean that the two sexes do not duplicate each other, each

fighting to fulfill the same roles and behaving in the same manner. Instead they complement each other, exercising their own particular strengths and mitigating their partners' weaknesses. Feminists in various Muslim countries have demanded that women be fully represented according to their population percentage in all fields such as the political and the judicial. Other groups too have demanded not only equality but often superiority based on race, language or regional prejudice. Such calls for 'positive discrimination' have been breeding grounds for hatred and disunity within the Muslim *Ummah* (nation) and can serve no real purpose. The Qur'ân speaks of men and women coming from each other, being garments for each other and being bounded together by love and mercy.

The hatred for men that many feminists preach is totally alien to Islamic teachings. Instead of the sexes competing against each other, Islam teaches mutual co-operation to form a harmonious and just society, the bedrock of which is a stable family life.

The ultimate goal of both men and women is to win Allah's pleasure and His countless favours in the Hereafter. If a man can achieve them through *Jihad*, observing the Divine commandments and constantly struggling against the forces of Satan, so a woman too has a way open to her as described by the Prophet صلى الله عليه وسلم :

«الْمَرْأَةُ إِذَا صَلَّتْ خَمْسَهَا، وَصَامَتْ شَهْرَهَا، وَأَحْصَنَتْ فَرْجَهَا، وَأَطَاعَتْ بَعْلَهَا، فَلْتَدْخُلْ مِنْ أَيِّ أَبْوَابِ الْجَنَّةِ شَاءَتْ»

"If a woman prays regularly fives times a day, fasts the month (of Ramadan), guards her chastity and obeys her husband, it will be said to her: Enter Paradise from whichever gate you wish." (Ibn Hibban).